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Department of Energy

ROCKY FLATS OFFICE  
P.O. BOX 928  
GOLDEN, COLORADO 80402-0928



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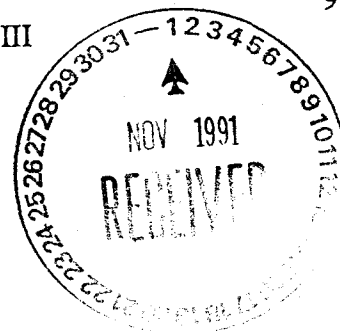
ACTION

DIST.	LTR	ENC
BENJAMIN, A.		
BRETZKE, J.C.		
BURLINGAME, A.H.		
COPP, R.D.		
CROUCHER, D.W.		
DAVIS, J.G.		
EVERED, J.E.	X	
FERRERA, D.W.		
FERRIS, L.R.		
FRAIKOR, F.J.		
FRANCIS, G.E.		
GOODWIN, R.		
HANNI, B.J.		
HEALY, T.J.		
IDEKER, E.H.		
JENS, J. P.		
KERSH, J.M.	X	
KIRBY, W.A.		
KRIEG, D.		
KUESTER, A.W.		
LEE, E.M.		
MAJESTIC, J.R.		
MARX, G.E.		
MATHEWS, T.A.		
MEURRENS, B.E.		
MORGAN, R.V.		
PIZZUTO, V.M.		
POTTER, G.L.		
SAFFELL, B.F.		
SANDLIN, N.B.		
MANSON, E.R.		
SE, J.S.		
WILKINSON, R.B.		
WILSON, J.M.		
YOUNG, E.R.		
ZANE, J.O.		
Bunge, P.	X	

OCT 1 1 1991

ROCKY FLATS PLANT  
CORRESPONDENCE CONTROL

91-DOE-8325



Mr. Martin Hestmark  
U. S. Environmental Protection Agency, Region VIII  
ATTN: Rocky Flats Project Manager, 8HWM-RI  
999 18th Street, Suite 500, 8 WM-C  
Denver, Colorado 80202-2405

Mr. Gary Baughman  
Hazardous Waste Facilities Unit Leader  
Colorado Department of Health  
4210 East 11th Avenue  
Denver, Colorado 80220

Gentlemen:

We are in receipt of your September 26, 1991 letter denying our request for schedule extension for the Operable Unit 2 Surface Water Interim Remedial Action (IM/IRA) in South Walnut Creek. As a result we wish to invoke Dispute Resolution as per Part 16 of the Interagency Agreement. This letter serves as our written Statement of Dispute.

Our September 16, 1991 letter requested extension of the September 30 and October 30, 1991 milestones for completion of construction and startup of the IM/IRA treatment system to September 24, 1992 and September 25, 1992, respectively. As stated in our September 16, 1991 letter, the delay in meeting these milestones is due to procurement delays and technical problems, and we believe that good cause exists for granting of the requested extension.

Pursuant to Part 42, paragraph 223 of the IAG, we would like to obtain a determination through the Dispute Resolution process as to whether good cause exists to justify our extension. We believe good cause for extension requests exist in regard to "an event of Force Majeure." Part 49, paragraph 249, "Force Majeure" includes:

"...delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures..."

The procurement delays have the same basis as various problems experienced with earlier milestones and extension requests. For example, our December 21, 1990 (11039-DOE-90), January 25, 1991 (0570-DOE-91), and February 1 (0668-DOE-91) and 11 (1045-DOE-91) letters cite procurement problems and associated delays arising from a November 1990 audit of the Rocky Flats procurement systems. These problems impacted the OU2 IM/IRA treatment system, but were not identified to you in the February 1991 timeframe because of the effort to utilize an alternate procurement strategy to meet the original milestone. By granting extensions on other milestones we believe you recognized the validity of the problems which occurred last winter.

COBRES CONTROL  
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Reviewed for Addressee  
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10-21-91

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BY

Ref Ltr. #

ADMIN RECORD

A-OU02-000856

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We believe we have demonstrated due diligence in pursuing the IAG milestone, by utilizing an alternate and parallel action to transfer an existing piece of equipment to meet the technical need and schedule commitment as described in our September 16, 1991 letter (91-DOE-7494). The September 16, 1991 letter described the technical problems which ultimately caused that alternate strategy to become infeasible.

We believe that good cause exists for extension and that we have demonstrated due diligence toward meeting the original commitment. As specified in the dispute resolution process, we wish to try and resolve this issue at the Project Coordinator level. Therefore, we will be requesting a meeting in the near future to discuss the dispute in more detail. If you have any questions, please contact Frazer Lockhart of my staff at 966-7846.

Sincerely,



David P. Simonson,  
Assistant Manager  
for Environmental Management

cc:

R. Greenberg, EM-453  
R. Lightner, EM-45  
A. Rampertaap, EM-453  
M. Bishop, DOE/RFO  
G. Fess, DOE/RFO  
E. Evered, EG&G/RF  
P. Bunge, EG&G/RF  
B. Frazer, EPA  
J. Schieffelin, CDH  
B. Barry, CDH